

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P/63982/GPTX12	FOR FURTHER ACTION	
	See Form PCT/IPEA/416	
International application No. PCT/EP2005/050721	International filing date (day/month/year) 18.02.2005	Priority date (day/month/year) 20.02.2004
International Patent Classification (IPC) or national classification and IPC INV. H04J3/08 H04L12/46		
Applicant MARCONI COMMUNICATIONS SPA et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input checked="" type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		

Date of submission of the demand 12.12.2005	Date of completion of this report 30.03.2006
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Bernardini, A Telephone No. +31 70 340-



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-18 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/12-12/12 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
 4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. II Priority

1. This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
 - copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
 - translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

see separate sheet

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4,5,7,9-14,16,18,19
	No: Claims	1-3,6,8,15,17,20-23
Inventive step (IS)	Yes: Claims	
	No: Claims	1-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item II.

The priority set of claims has not been considered valid as the set of claims of the PCT application considers a 'control plane' instead of 'control program', and given the fact that the two wordings have different meanings, implying the first an hardware deployment while the second a software one.

Re Item V.

Reference is made to the following document:

- D1 : US 6 259 837 B1 (DE BOER EVER ET AL) 10 July 2001 (2001-07-10)
D2: EP-A-0 961 518 (ALCATEL CANADA INC) 1 December 1999 (1999-12-01)
D3: US-B1-6 181 677 (VALLI RON ET AL) 30 January 2001 (2001-01-30)

1 INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 (see figure 4, column 2 line 8 - line 56, column 3 line 8 - 61) discloses a system made up of interconnected rings among which there are primary terminal nodes and secondary terminal nodes, where the secondary nodes are used to realize protection circuit

2 DEPENDENT CLAIMS 2,3,6,8,15,17,20-23

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 2,3,6,8,15,17,20-23 is not new in the sense of Article 33(2) PCT. (see D1, column 2 line 8 - line 56, column 3 line 8 - 61)

3 DEPENDENT CLAIMS 4,5,7,9-14,16,18,19

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 4,5,7,9-14,16,18,19 does not involve an inventive step in the sense of Article 33(3) PCT, for the following reasons:

- 3.1 The features of claims 4,5,7,11-13,16 and 19 are a matter of normal design procedure for the man skilled in the art of communication network protection system.
- 3.2 The features of claims 14 and 18 are a combination of the features contained in the claims from which they depend plus a selection of obvious features.

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3.3 The subject matter of claim 9 is not inventive (see D1 and D2 abstract and paragraph 11)

3.4 The subject matter of claim 10 is not inventive (see D1 and D3 column 1 line 64 - column 2 line 42)